

# § 1.666(d)-1A

within the meaning of section 665(b) of \$5,420 for each year.

(b) The undistributed net income of the trust determined under section 665(a) as of the close of 1974, is \$12,840, computed as follows:

Distributable net income .....	\$20,100
Less: Taxes imposed on the trust attributable to the undistributed net income .....	7,260
Undistributed net income as of the close of 1974 .....	12,840

(c) The accumulation distribution of \$5,420 made during the taxable year 1975 is deemed under section 666(a) to have been made on December 31, 1974. Since this accumulation distribution is less than the 1974 undistributed net income of \$12,840, a portion of the taxes imposed on the trust for 1974 is also deemed under section 666(c) to have been distributed on December 31, 1974. The total amount deemed to have been distributed to X on December 31, 1974 is \$8,484, computed as follows:

Accumulation distribution .....	\$5,420
Taxes deemed distributed (5,420/ 12,840×\$7,260) .....	3,064
Total .....	8,484

(d) After the application of the provisions of subpart D to the accumulation distribution of 1975, the undistributed net income of the trust for 1974 is \$7,420, computed as follows:

Undistributed net income as of the close of 1974 .....	\$12,840
Less: 1975 accumulation distribution deemed distributed on December 31, 1974 (paragraph (c) of this example) .....	5,420
Undistributed net income for 1974 as of the close of 1975 .....	7,420

(e) The taxes imposed on the trust attributable to the undistributed net income for the taxable year 1974, as adjusted to give effect to the 1975 accumulation distribution, amount to \$4,196, computed as follows:

Taxes imposed on the trust attributable to undistributed net income as of the close of 1974 ....	\$7,260
Less: Taxes deemed distributed in 1974 .....	3,064
Taxes attributable to the undistributed net income determined as of the close of 1975 .....	4,196

(f) The accumulation distribution of \$5,420 made during the taxable year 1976 is, under section 666(a), deemed a distribution to X on December 31, 1974, within the meaning of section 661(a)(2). Since the accumulation distribution is less than the 1974 adjusted undistributed net income of \$7,420, the trust is deemed under section 666(c) also to have distributed on December 31, 1974, a portion of the taxes imposed on the trust for 1974. The total amount deemed to be distributed on December 31, 1974, with respect to the accumulation distribution made in 1976, is \$8,484, computed as follows:

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Accumulation distribution .....	\$5,420
Taxes deemed distributed (5,420/ 7,420×\$4,196) .....	3,064
Total .....	8,484

(g) After the application of the provisions of subpart D to the accumulation distribution of 1976, the undistributed net income of the trust for 1974 is \$2,000, computed as follows:

Undistributed net income for 1974 as of the close of 1975 .....	\$7,420
Less: 1976 accumulation distribution deemed distributed on December 31, 1974 (paragraph (f) of this example) .....	5,420
Undistributed net income for 1974 as of the close of 1976 .....	2,000

(h) The taxes imposed on the trust attributable to the undistributed net income of the trust for the taxable year 1974, determined as of the close of the taxable year 1976, amount to \$1,132 (\$4,196 less \$3,064).

[T.D. 7204, 37 FR 17145, Aug. 25, 1972]

## § 1.666(d)-1A Information required from trusts.

(a) *Adequate records required.* For all taxable years of a trust, the trustee must retain copies of the trust's income tax return as well as information pertaining to any adjustments in the tax shown as due on the return. The trustee shall also keep the records of the trust required to be retained by section 6001 and the regulations thereunder for each taxable year as to which the period of limitations on assessment of tax under section 6501 has not expired. If the trustee fails to produce such copies and records, and such failure is due to circumstances beyond the reasonable control of the trustee or any predecessor trustee, the trustee may reconstruct the amount of corpus, accumulated income, etc., from competent sources (including, to the extent permissible, Internal Revenue Service records). To the extent that an accurate reconstruction can be made for a taxable year, the requirements of this paragraph shall be deemed satisfied for such year.

(b) *Rule when information is not available*—(1) *Accumulation distributions.* If adequate records (as required by paragraph (a) of this section) are not available to determine the proper application of subpart D to an accumulation distribution made in a taxable year by a trust, such accumulation distribution

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shall be deemed to consist of undistributed net income earned during the earliest preceding taxable year (as defined in § 1.665(e)-1A) of the trust in which it can be established that the trust was in existence. If adequate records are available for some years, but not for others, the accumulation distribution shall be allocated first to the earliest preceding taxable year of the trust for which there are adequate records and then to each subsequent preceding taxable year for which there are adequate records. To the extent that the distribution is not allocated in such manner to years for which adequate records are available, it will be deemed distributed on the last day of the earliest preceding taxable year of the trust in which it is established that the trust was in existence and for which the trust has no records. The provisions of this subparagraph may be illustrated by the following example:

*Example.* A trust makes a distribution in 1975 of \$100,000. The trustee has adequate records for 1973, 1974, and 1975. The records show that the trust is on the calendar year basis, had distributable net income in 1975 of \$20,000, and undistributed net income in 1974 of \$15,000, and in 1973 of \$16,000. The trustee has no other records of the trust except for a copy of the trust instrument showing that the trust was established on January 1, 1965. He establishes that the loss of the records was due to circumstances beyond his control. Since the distribution is made in 1975, the earliest "preceding taxable year", as defined in § 1.665(e)-1A, is 1969. Since \$80,000 of the distribution is an accumulation distribution, and \$31,000 thereof is allocated to 1974 and 1973, \$49,000 is deemed to have been distributed on the last day of 1969.

(2) *Taxes.* (i) If an amount is deemed under this paragraph to be undistributed net income allocated to a preceding taxable year for which adequate records are not available, there shall be deemed to be "taxes imposed on the trust" for such preceding taxable year an amount equal to the taxes that the trust would have paid if the deemed undistributed net income were the amount remaining when the taxes were subtracted from taxable income of the trust for such year. For example, assume that an accumulation distribution in 1975 of \$100,000 is deemed to be undistributed net income from 1971, and that the taxable income required

to produce \$100,000 after taxes in 1971 would be \$284,966. Therefore the amount deemed to be "taxes imposed on the trust" for such preceding taxable year is \$184,966.

(ii) The credit allowed by section 667(b) shall not be allowed for any amount deemed under this subparagraph to be "taxes imposed on the trust."

[T.D. 7204, 37 FR 17146, Aug. 25, 1972]

### § 1.666(a)-1 Amount allocated.

(a)(1) If a trust other than a foreign trust created by a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years. It is therefore necessary to determine the extent to which there is undistributed net income for the preceding 5 years. For this purpose, an accumulation distribution made in any taxable year is allocated to each of the 5 preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(2) If a foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. It is therefore necessary to determine the extent to which there is undistributed net income for such preceding taxable years. For this purpose, an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(3) If a trust that is in part a foreign trust created by a U.S. person and in